

**SHERBURNE COUNTY  
BOARD OF ADJUSTMENT  
MINUTES  
FEBRUARY 11, 2021**

Chairperson Johnson called the meeting to order at 6:00 P.M.

Roll call was taken.

**Members Present:**

Roger Johnson – Chairperson (on phone)  
Steve Demeules  
Roger Nelson  
Lynda Ponting  
Bud Stimmler

**Staff Present:**

Lynn Waytashek – Assistant Planning & Zoning Administrator  
Mitch Glines – County Planner  
Addison March – Environmental Specialist  
Kelly Mittelstaedt – Secretary

Nelson made a motion to approve the minutes from the December 10, 2020 Board of Adjustment Meeting. Demeules seconded the motion. All in favor. Motion passed.

Nelson made a motion to approve the evening's agenda. Stimmler seconded the motion. All in favor. Motion passed.

Johnson informed everyone a new member has been appointed and his name is Dave Anderson from Big Lake. There will be another member appointed shortly. The 2 new members will have a training session with Nancy Riddle before they come to the first meeting. Bryan Lawrence will no longer be on the Board of Adjustment. Part of the reason is because the Commissioners have decided to go back to where there is 1 Board of Adjustment member from each County Commissioners District. The other 2 members will be at large.

**ELECTION OF OFFICERS FOR 2021:**

Current officers are: Roger Johnson, Chairperson; Bryan Lawrence, Vice-Chair; Kelly Mittelstaedt, Secretary.

Nelson nominated Roger Johnson as Chairperson. Nelson moved for nominations to cease.

Nelson nominated Steve Demeules as Vice-Chairperson. Nelson moved for nominations to cease.

Nelson nominated Kelly Mittelstaedt for Secretary. Nelson moved for nominations to cease.

All in favor. Motion to approve passed.

Johnson asked Demeules to run the meeting since he was in person.

**6:04 P.M. STEVE & CINDY MOCKENHAUPT:** Requesting a 51' variance in setback from the right of way of 253 ½ Ave NW for a personal storage structure. Required setback from the right of way is 67'. Address: 16482 253 ½ Ave NW, Big Lake, Mn Legal: Ann Lake Beach Lot 14, Block 2 Sec 15, Twp 34, Rge 27 .10 Acres Orrock Township General Rural District and within the Recreational Development Lakeshore District of Ann Lake.

Demeules read the variance request.

Glines explained the applicant was at the December 10, 2020 Board of Adjustment meeting. His request was denied because he was too close to the road. The applicant met with a septic designer and they determined the septic was oversized for the house. If they can abandoned the first run of the southern portion of the drainfield then they can move the building 6' more feet from the right of way. That way they could still get the 10' separation from the building to the drainfield.

Waytashek said he is asking for less of a variance than he originally requested.

Glines explained originally the applicant was asking for a 57' variance and now he's asking for a 51' variance.

Demeules reminded everyone the meeting was being audio recorded for accuracy.

Steve & Cindy Mockenhaupt, 16481 253 ½ Ave NW, Big Lake, Mn were present.

Mr. Mockenhaupt said originally the building was going to be 20' from the right of way. They had thought about having a 3-bedroom cabin but since have decided to have a 2 bedroom cabin. Most of the buildings on the road are within 20' of the road. The proposed building will be 26' from the road.

Demeules asked if anyone in the audience had any comments or questions.

Glines said staff received 2 written comments. One from Joni Morton, 16449 253 ½ Ave NW, Big Lake, Mn showing her support for the applicant.

Another from Patrick O’hern, 25022 165<sup>th</sup> St NW, Big Lake, Mn. He is the president of the Lake Ann Association. He supports the variance due to the volunteer work the applicant does for the lake and the need for storage. He stores chemicals and the equipment for spraying the lake.

Nelson motioned to close the public hearing. Stimmler seconded the motion. All in favor. Motion passed.

Nelson motioned and Stimmler seconded the motion to approve the 51’ variance in setback from the right of way of 253 ½ Ave NW for a personal storage structure with the following conditions and “Findings of Fact”:

**Conditions:**

1. Must obtain a building permit and pay the associated fees prior to starting work on this project.
2. The existing shed is required to be removed before a building permit is issued.
3. Must abandon the most southern 1<sup>st</sup> run of the drainfield per MPCA guidelines and must obtain a septic permit for this.
4. The existing drainfield will have to be fenced off as to not have construction activity on the drainfield.
5. Must install gutters on the building to control run-off and ensure run-off is not toward drainfield.
6. Applicant must install erosion control around perimeter of project to minimize construction run-off.
7. The variance is only valid if acted upon by the applicant within one (1) year of approval.

**Findings of Fact:**

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ( ) Garages are an allowed use in the residential area.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No ( ) The lot is across the road from the home and the county just spent almost a year changing the ordinances so you can have an accessory building with a CUP.
3. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance. Yes (X) No ( ) There are several other lake properties in the area.
4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No ( ) It’s an older development and the lots were platted years ago. Trying to make 2020 zoning fit into 1960 plats.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No ( ) The applicant has went out of his way to comply with the wishes of the board.

6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No ( ) There is like buildings in the area.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ( ) The septic has been compliant.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No ( ) The building has a greater setback than the original application.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes (X) No ( ) Most of the houses in the area are taller than this proposed building.
10. The variance will not increase loss of sunlight, views, or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No ( ) The neighbors are not that close.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No ( ) It is a reasonable use to have a storage area.

All in favor. Motion to approve passed.

Demeules said he really appreciates the applicant working with the board and coming back with changes.

Johnson also thanked the applicants for taking the boards recommendations to heart and coming up with a new proposal.

**6:17 P.M. ERIC WILLIAMS:** Requesting a 6' variance in setback from the right of way of 46<sup>th</sup> Ave SE for an addition on existing house and garage. Required setback from the right of way is 67'. Address: 6560 46<sup>th</sup> Ave SE St Cloud, Mn Legal: Sherwood Shores Lot 11, Block 2 Sec 34, Twp 35, Rge 30 .78 Acres Haven Township Agricultural District and within the Recreational Development Lakeshore District of Long Lake.

Eric Williams, 6560 46<sup>th</sup> Ave SE, St Cloud, Mn was on the phone for the meeting.

March explained the applicant was proposing 2 additions. The house addition will add to an existing bedroom and a new bedroom. The porch will be extended toward the road. The second addition will be to add another garage stall. The septic is designed for 3 bedrooms and that will still be in compliance because he is eliminating one of the bedrooms in the basement.

Waytashek wanted to make it clear the applicant can't make anymore bedrooms in the home. Only the 3 bedrooms upstairs are allowed.

Demeules asked if the addition was getting closer to the road.

March said the current house is meeting setback to the road right of way. The extension of the porch toward the road is what's causing the need for the variance.

Stimmler said the existing septic and drainfield are between the road and the house currently.

Johnson suggested adding a condition with regard to BMP be included per a recommendation from the SWCD.

Demeules asked if anyone in the audience had any comments or questions.

March said she received a written comment from Eric & Susan Meyer, 6530 46<sup>th</sup> Ave SE, St Cloud, Mn. They are in support of the variance request.

Nelson motioned to close the public hearing. Stimmler seconded the motion. All in favor. Motion passed.

Stimmler motioned and Ponting seconded the motion to approve the 6' variance in setback from the right of way of 46<sup>th</sup> Ave SE for an addition on existing house and garage with the following conditions and "Findings of Fact":

**Conditions:**

1. Prior to construction, a building permit must be obtained from the County.
2. The applicant must apply for and obtain a shoreland alteration permit.
3. Gutters must be added onto the proposed additions by November 1, 2022.
4. The house must remain a three- bedroom dwelling with no bedrooms in the basement until such a time that the septic system on site is ungraded or replaced with a system that is designed to treat effluent from additional bedrooms and proper egress windows are installed to satisfy building code.
5. The variance is only valid if acted upon by the applicant within one (1) year of approval.
6. Applicant must work with the SWCD to come up with a method to handle water runoff. Prior to a building permit being issued the BMP plan must be submitted to the Zoning Office.

**Findings of Fact:**

1. Granting the variance will not be in conflict with the comprehensive plan. Yes (X) No ( ) It will not be in conflict. It's going to be an improvement of the house and it fits in there.
2. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control. Yes (X) No ( ) The property owners of the property don't have any control over it. All they are doing is trying to improve the property.
3. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance. Yes (X) No ( ) They are just trying to improve their property and expand the house for livable space.

4. The exceptional or extraordinary circumstances do not result from the actions of the current or previous owner(s) under the current Ordinance or State Law. Yes (X) No ( ) They do not result from actions of current or previous owners.
5. The variance requested is the minimum variance which would alleviate the practical difficulty. Yes (X) No ( ) The variance is the minimum needed to make this practical difficulty.
6. The variance, if granted, will not alter the essential character of the locality and there would be no significant effect on the surrounding properties. Yes (X) No ( ) There will be no affect on the surrounding properties and actually the character of the existing house will be improved.
7. Adequate sewage treatment systems can be provided if the variance is granted. Yes (X) No ( ) The septic system was upgrade in 2017 and as long as they don't add anymore bedrooms.
8. Granting the variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because the driveway is inadequate length or width. Yes (X) No ( ) It will not result in parking or loading of vehicles on public streets as to interfere with the flow of traffic.
9. If a shoreland variance, it will not be a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site. Yes ( ) No ( ) N/A
10. The variance will not increase loss of sunlight, views or privacy of the neighboring properties of the residence were built according to the applicable regulation and height of structure. Yes (X) No ( ) It will not increase loss of sunlight, views or privacy of the neighboring properties.
11. Economic considerations or circumstances shall not be considered so long as a reasonable use of the property exists under the terms of the Ordinance. Yes (X) No ( ) Economic considerations or circumstances shall not be considered as long as they follow all the conditions.

All in favor. Motion to approve passed.

6:32 P.M. Nelson motioned and Ponting seconded the motion to adjourn. Motioned carried. Meeting adjourned.

Submitted by:  
Kelly Mittelstaedt